

# MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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Harinder Singh,  
*Appellant-Respondent,*

v.

Gursimran Kaur Dhanda,  
*Appellee-Petitioner.*

January 31, 2023

Court of Appeals Case No.  
22A-DC-1672

Appeal from the Johnson Circuit  
Court

The Honorable Andrew S.  
Roesener, Judge

Trial Court Cause No.  
41C01-2102-DC-78

**Memorandum Decision by Judge Brown**  
Chief Judge Altice and Judge Tavitas concur.

**Brown, Judge.**

[1] Harinder Singh (“Father”) appeals the trial court’s order denying his motions to correct error and to modify child support and finding him in contempt. We affirm.

### *Facts and Procedural History*

[2] Father and Gursimran Kaur Dhanda (“Mother”) were married in November 2014 and have two children who were born in October 2016 and November 2019. On February 9, 2021, Mother filed a petition for dissolution of marriage. On May 6, 2021, the court set a final hearing for August 24, 2021. On July 7, 2021, Mother filed a motion to compel discovery responses stating that Father had not provided responses to her interrogatories or request for production of documents which were due on June 16, 2021. That same day, the court ordered Father to provide full and complete answers and responses to Mother’s discovery requests by July 26, 2021. On July 26, 2021, Father submitted a statement indicating that he and Mother were together again. On August 3, 2021, Mother filed a response indicating that she did not agree with the dismissal of the petition for dissolution. That same day, the court issued an order declining to dismiss the petition for dissolution and stating the August 24, 2021 hearing remained set.

[3] On August 24, 2021, the court held a hearing at which Father appeared pro se and Mother appeared with counsel. Mother testified that she had moved to her parents’ house in February, she was the primary caregiver for the parties’ two children, the parties maintained separate bank accounts during the marriage,

and they never co-mingled their money. She testified that Father never responded to her multiple discovery requests or provided any of the information requested, she believed she and Father had about an equal amount of money, and Father had assets located outside the country. She indicated that her request was that she and Father keep the assets which were in their sole names and that she believed that would be an equal division of the assets. She indicated the marital residence was in both parties' names, she was asking that the marital residence be awarded to her, and stated that she was able to refinance the residence. Mother introduced a child support worksheet and indicated that the worksheet was based on the parties' incomes and the amounts she paid for childcare and health insurance for the children. The court noted the worksheet included a recommended support obligation for Father of \$235.35. The court asked Father if he had any objection to the admission of the worksheet as evidence, Father answered "No, Sir," and the court admitted the exhibit. Transcript Volume II at 11.

[4] Father testified "I heard that she said equal amount," "since I moved to United States . . . in 2016 . . . we have the separate bank accounts," Mother was a registered nurse, "before she filed the divorce she dropped her hours," he made about \$17 per hour, and Mother was making about \$35 per hour. *Id.* at 15. He testified: "And equal amount in the bank accounts, which is not true . . . I remember she – in her bank account she had like \$150,000.00. And I had only \$15,000.00." *Id.* He testified that he "was paying for every single thing since we got married and I have evidence for everything." *Id.* He indicated that

Mother took the jewelry which belonged to him and was worth \$50,000. Father indicated that he brought his paystubs and tax papers with him, and the court indicated that he did not comply with the discovery requests and it was not going to disadvantage Mother by placing those items into evidence. Father testified “my wife mentioned that . . . she was paying for the house,” “in the starting of the 2018, my father, he helped us with like [] from \$30,000.00 to \$40,000.00 to my wife in her account because her brother was getting married in India,” “they gave them the money over there – my father gave them and we took the dollars from so we don’t have to pay for the exchange rate,” and “that money went to her account so we can pay for the house because we could not afford the house that time, so my father helped me out.” *Id.* at 21-22. He also said “the payments she was making was the help my father gave to us ‘cause we could not afford it that time, like a big house, because . . . we were like only 25 years old that time” and “[m]e and my wife, we are same age. When we bought the house we couldn’t afford it.” *Id.* at 22.

[5] Mother testified “when we started working we were paying everything equally,” “I was paying for the mortgage, which was 1350 and he was paying for the utilities,” “he’s trying to say that we didn’t save equally, that’s because I was working full time,” “I was making more at that time and he was not making enough,” “we’ve always done 50/50 on anything we have to spend,” and “at the beginning of this case I gave all the proof of everything I have, so I showed all my assets.” *Id.* at 23. Mother testified “when we gave the down payment for the house, [Father’s father] provided \$28,000.00 and I paid the rest

of the down payment” and “after that, . . . I provided for all the . . . mortgages.” *Id.* at 24. Father asked “you were making double than me . . . [b]ecause you are a registered nurse and I am a mechanic” and “you wanted to take a divorce with me, right, so you moved your hours from 40 hours to 25 hours, is that correct,” and Mother answered: “That’s incorrect. In fact, . . . you were the one that forced me to go part time. I don’t know if you remember.” *Id.* at 26. Father asked “[w]hy did I force –,” and Mother stated: “Because you didn’t – because your family actually wanted me to quit my job. Just so I wouldn’t go get Covid or be exposed to Covid. But I said I wanted to . . . at least keep part time so I don’t lose my benefits.” *Id.* Father said “Okay.” *Id.* Mother stated: “I worked full time since I was the age of 18, so this is just recent.” *Id.*

[6] Also on August 24, 2021, Father filed a “Request” stating “[t]oday I had a hearing, and the paperwork provided to me (child support obligation worksheet) . . . have some false information about my weekly pay” and “[m]y weekly pay is only \$692 but that form said \$900.” Appellant’s Appendix Volume II at 55-56. He attached one of his paystubs and the parties’ 2019 W-2 Forms. The court issued an order stating Father’s “Request” challenged the veracity of an exhibit admitted without objection at the final hearing, the objection was untimely, and the request was denied.

[7] On August 31, 2021, the court entered a decree of dissolution. The court ordered Father to pay \$194 per week in child support. It awarded the marital residence to Mother, ordered Father to execute a quitclaim deed and any other documents necessary to release any claim to the property, and ordered Mother

to refinance the mortgage or otherwise remove Father's name from the mortgage. It ordered Mother to return to Father all jewelry in her possession which was gifted to the parties at the time of their wedding by Father's family, awarded Mother a 2011 Honda Accord, and awarded Father a 2017 Toyota Camry. It ordered that Father and Mother shall each be awarded their own personal effects from the marital residence and that Father and Mother shall meet to divide the remaining personal property in the marital residence. The court awarded any and all bank and retirement accounts solely in Mother's name to her and any and all bank and retirement accounts solely in Father's name to him.

[8] On September 23, 2021, Father filed a motion to correct error. He argued the court did not set forth a rationale for an unequal distribution of the marital estate, it could not have included the retirement accounts in its analysis as there was no evidence as to their existence or value, he believed Mother had over \$16,000 in a retirement account, and he did not have a retirement account. He requested a hearing to determine the value of and divide the parties' retirement accounts. He also requested that the court divide the marital debt of the loan from his father between the parties. With respect to child support, he argued there was no evidence Mother was incapable of working full-time and requested that the court recalculate his child support. Mother filed a response stating Father had failed to answer discovery as ordered, the parties presented evidence at the final hearing, and Father's failure to provide documentation was not an

error committed by the court. On December 30, 2021, Father filed a petition to modify child support.

[9] On January 19, 2022, Mother filed a petition for contempt stating that she was approved for refinancing, the lender sent Father the documents necessary to release his claim to the marital residence, and Father had not signed the documents. The court issued an order in February 2022 referring the case for mediation, and the mediator filed a report indicating mediation occurred on May 24, 2022, and was unsuccessful.

[10] On June 22, 2022, the court held a hearing at which the parties appeared with counsel. Father testified that he did not have a retirement account and presented a retirement account summary for Mother for the period ending January 31, 2021, showing an ending balance of \$19,477.54. He indicated the \$28,000 received from his father was a debt and that he did not have anything in writing. He stated there was no reason that Mother was unable to work full-time. He agreed that Mother had given him a deed to sign and that he had not signed it. He testified “we both bought it so I have a right of the 50% of that property,” “[t]he down payment was given by my father as well, like, the part of the down payment,” and “[s]o I feel like . . . I have something that belongs to that property as well.” Transcript Volume II at 41. With respect to his motion to modify child support, Father testified that he had been injured at work in December, he did not return to work at the factory, he started working full-time as an assistant store manager at Kroger three or four weeks earlier, and his rate had been \$17 per hour at the factory and was \$20.45 per hour at Kroger. He

introduced earnings statements for Mother showing her rate of \$34.79 per hour. He also introduced a proposed child support worksheet which included weekly gross salaries of \$818 for him and \$1,391.60 for Mother and a recommended child support obligation of \$117 per week. Father requested that the court award him half of Mother's retirement account and that Mother be responsible for the entire debt to his father. He acknowledged that he did not present any evidence at the final hearing regarding the parties' retirement accounts, bank accounts, or paystubs. He indicated the parties purchased the marital residence in December 2017, they received the money from his father in the beginning of 2018, and there had not been any payments to repay his father.

[11] When asked if she was able to work full-time, Mother testified “[n]ot at this time” because she was “full time in school right now completing [her] Bachelor’s” and her “younger daughter has two therapies that she has to attend – developmental and speech – twice a week.” *Id.* at 66. When asked what time she worked, she answered “[m]y schedule is not consistent, so I work evenings. Sometimes . . . middle of the day. Sometimes I have to work earlier in the morning.” *Id.* at 69. She indicated that she started working part-time because she and Father agreed to that and because she had a new child, she had been working part-time for several years prior to the divorce, and she was in school finishing her bachelor’s degree in nursing. Mother presented exhibits summarizing the additional amounts in interest she would pay to refinance the mortgage on the marital residence as a result of Father refusing to sign the documents to remove him from the house which she previously provided to



him. She indicated she had been approved for a mortgage with an interest rate of 2.625 percent, the rate expired, and the new rate was 6.25 percent. She presented several earning statements showing her hourly rate and hours worked.<sup>1</sup> She also introduced a child support worksheet which included a weekly gross income of \$904 for her and \$816 for Father, a childcare expense of \$115, a health insurance premium of \$24, and a recommended support obligation of \$233.89.

[12] On July 1, 2022, the court issued a twenty-four-page order denying Father’s motion to correct error and motion to modify child support and granting Mother’s petition for contempt. The court found that Father wholly refused to respond to a single discovery request made by Mother and that Mother and her attorney “had no independent basis to determine Father’s income or to assess the value Father placed on various debts and assets comprising the marital estate.” Appellant’s Appendix Volume II at 28. It found “the gravamen of Father’s complaint is that the dissolution decree indicated that each party was awarded any retirement account(s) existing in his or her respective name” and “[n]either party made any direct reference to a retirement account during the evidentiary hearing.” *Id.* It found Father could have, but did not, respond to Mother’s request that the assets belonging to each party be awarded to that party, cross-examine Mother about the existence and value of her retirement

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<sup>1</sup> The statements show Mother had 52.08 regular hours in the two-week pay period ending February 20, 2022, 48.25 regular hours in the pay period ending February 6, 2022, and 49.68 regular hours in the period ending January 23, 2022.

account, or request discovery from Mother in order to present the assets and debts of the marital estate. The court found the money received from Father's father was provided one month after the home was purchased, there was no promissory note or written memorialization of any interest owed or repayment terms, not a single payment had been made in the four and one-half years since the money was received, and there was no evidence that his father ever sought repayment. It found the evidence "makes patently clear" that the \$28,000 was a gift and not a loan. *Id.* at 31.

[13] As for Mother's weekly gross income, the court stated that Mother offered a child support worksheet into evidence which was admitted without objection. The court found "Father asserted that Mother's decision to work on a part-time basis during the course of the marriage was a unilateral decision made by her," Mother "unequivocally stated that . . . she was forced by Father to work part time," and "Father's response to this riposte was 'Okay' . . . thereby apparently accepting the proposition that he had forced Mother to reduce her work hours." *Id.* at 33. It found "[i]t is reasonable to infer that Mother's care of the parties' five (5) and two (2) year old little girls was a factor in this decision, but Father never explored this issue and, as a result, the answer is unknown." *Id.* at 33-34. The court found "Father offered only testimony about the hourly rate each party earned at their respective jobs" and concluded "Mother's evidence was a truer measure of gross weekly income than Father's evidence" and "[n]othing has changed the court's opinion in this regard." *Id.* at 34. As for Father's petition to modify child support, the court found the factual basis for the claim

was an injury suffered by Father during his prior employment, Father had since started full-time employment at Kroger earning \$20 per hour which is more than he was earning at the time of the accident, and there was no basis to modify child support. With respect to Mother’s petition for contempt, the court found “Father offered little, if any, resistance” to the claim and, “[a]s best [it] could discern, Father claimed he refused to execute the quitclaim deed because of his belief that Mother should first repay the [\$28,000] ‘loan’ that this court deemed was not, in fact, a loan . . . .” *Id.* at 37. It found Father’s recalcitrance with regard to the execution of the quitclaim deed mirrored his refusal to abide by the court’s order on the motion to compel discovery. The court found Father’s actions will cost Mother a significant amount of money, Mother was initially able to secure a mortgage with an interest rate of 2.65 percent, the lowest mortgage interest rate available was 6.25 percent, and it is reasonable to hold Father responsible for the difference in the higher interest rate and the lower interest rate for the first five years of the mortgage, and it ordered Father to pay Mother \$9,244.89.

### *Discussion*

[14] Father claims the trial court erred in dividing the marital property, determining his child support obligation, and finding him in contempt. The Indiana Supreme Court has expressed a “preference for granting latitude and deference to our trial judges in family law matters.” *In re Marriage of Richardson*, 622 N.E.2d 178, 178 (Ind. 1993). Appellate deference to the determinations of trial court judges, especially in domestic relations matters, is warranted because of

their unique, direct interactions with the parties face-to-face. *Best v. Best*, 941 N.E.2d 499, 502 (Ind. 2011).

[15] We apply a two-step standard of review: whether the evidence supports the findings of fact, and whether the findings of fact support the conclusions. *Yanoff v. Muncy*, 688 N.E.2d 1259, 1262 (Ind. 1997). Findings are clearly erroneous only when the record contains no facts to support them either directly or by inference. *Id.* To determine that a finding or conclusion is clearly erroneous, our review of the evidence must leave us with the firm conviction that a mistake has been made. *See id.* We review a denial of a motion to correct error for abuse of discretion. *Speedway SuperAmerica, LLC v. Holmes*, 885 N.E.2d 1265, 1270 (Ind. 2008), *reh'g denied*.

A. *Mother's Weekly Gross Income*

[16] Father claims the evidence establishes that Mother was voluntarily underemployed without just cause and the court should have attributed potential income to her. A trial court's calculation of child support is presumptively valid, and we reverse a decision regarding child support only if it is clearly erroneous or contrary to law. *Saalfrank v. Saalfrank*, 899 N.E.2d 671, 674 (Ind. Ct. App. 2008) (citing *Young v. Young*, 891 N.E.2d 1045, 1047 (Ind. 2008)). We do not reweigh the evidence and consider only the evidence most favorable to the judgment. *Id.* Indiana Child Support Guideline 3A provides "weekly gross income" is defined "as actual weekly gross income of the parent if employed to full capacity, potential income if unemployed or

underemployed, and the value of ‘in-kind’ benefits received by the parent.” As for potential income, Guideline 3A provides that, if a court finds a parent is voluntarily unemployed or underemployed without just cause, child support shall be calculated based on a determination of potential income and that a determination of potential income shall be made by determining employment potential and probable earnings level based on the obligor’s employment and earnings history, occupational qualifications, educational attainment, literacy, age, health, criminal record or other employment barriers, prevailing job opportunities, and earnings levels in the community. The Commentary states a great deal of discretion will have to be used in this determination. It also states that one purpose of potential income is to discourage a parent from taking a lower paying job to avoid the payment of significant support.

[17] The trial court heard evidence regarding Mother’s current employment as a nurse, her hourly rate, her work history, and the reasons that she worked part-time. We note the record shows that Mother introduced a child support worksheet at the final hearing and Father indicated that he had no objection. The court admitted several of Mother’s earnings statements showing her hours worked and wages and heard her testimony that her schedule was not consistent.<sup>2</sup> The court found that Father apparently accepted the proposition

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<sup>2</sup> The earnings statements, covering three pay periods beginning on January 10, 2022, and ending on February 20, 2022, reflect that Mother worked an average of approximately 25 hours per week and had gross pay totaling approximately \$5,427.59 for the six-week period. The worksheet Mother introduced at the June 22, 2022 hearing included a weekly gross income for her of \$904.

that he had forced Mother to reduce her work hours, he failed to question Mother about how she arrived at the amount she included in her worksheet, it was reasonable to infer that Mother's care of the parties' children was a factor, and Mother's evidence was a truer measure of her weekly gross income. Our review of the evidence does not leave us with the firm conviction that a mistake has been made, and we do not find Father's arguments that the court erred in determining his child support obligation to be persuasive.

B. *Marital Property*

[18] Father asserts that the only competent evidence regarding the \$28,000 received from his father was his uncontradicted testimony that the sum was a loan, the court erred in failing to divide Mother's retirement account, the marital home had some value and the court should have required Mother to pay an amount to him as was just and proper to divide the asset and effect an equal division of the marital estate, and the only competent evidence regarding the parties' bank accounts was his testimony.

[19] The admission of evidence is entrusted to the sound discretion of the trial court. *In re A.J.*, 877 N.E.2d 805, 813 (Ind. Ct. App. 2007), *trans. denied*. Trial courts exercise broad discretion in making discovery rulings. *Int'l Bus. Machines Corp. v. ACS Human Servs., LLC*, 999 N.E.2d 880, 885 (Ind. Ct. App. 2013), *trans. denied*. Because of the fact-sensitive nature of discovery issues, a court's ruling is given a strong presumption of correctness. *Id.* This presumption extends to

its determinations with respect to violations of discovery orders which should not be overturned absent clear error and resulting prejudice. *Id.*

[20] The division of marital property is within the sound discretion of the trial court. *Love v. Love*, 10 N.E.3d 1005, 1012 (Ind. Ct. App. 2014). We consider only the evidence most favorable to the court's disposition of the property. *Id.* Although the facts and reasonable inferences might allow for a different conclusion, we will not substitute our judgment for that of the trial court. *Id.* The court must divide the marital property in a just and reasonable manner, and an equal division is presumed just and reasonable. *McGrath v. McGrath*, 948 N.E.2d 1185, 1187-1188 (Ind. Ct. App. 2011) (citing Ind. Code § 31-15-7-5). The presumption may be rebutted by evidence of certain factors including the contribution of each spouse to the acquisition of the property; the extent to which the property was acquired before the marriage or through inheritance or gift; the economic circumstances of each spouse at the time of the disposition; the conduct of the parties during the marriage as related to the disposition or dissipation of their property; and the earnings or earning ability of the parties. Ind. Code § 31-15-7-5. The party challenging the court's division must overcome a strong presumption that it considered and complied with the applicable statute. *McGrath*, 948 N.E.2d at 1188. The disposition of the marital property is to be considered as a whole, not item by item. *Id.* We review the court's decision in determining the value of the marital property for an abuse of discretion. *Goossens v. Goossens*, 829 N.E.2d 36, 38 (Ind. Ct. App. 2005).

[21] The record reveals that Father did not respond to Mother's discovery requests and failed to comply with the trial court's order that he provide full and complete answers and responses to Mother's discovery requests by July 26, 2021. The court heard Father's testimony regarding the amounts in the parties' respective bank accounts. He did not testify regarding any retirement accounts. He never provided any documentation related to the parties' bank or retirement accounts. Mother testified that she believed the parties had about an equal amount of money, Father had assets outside the country, and she believed that awarding the parties the assets in their sole names would result in an equal division of the assets. As for the marital residence, the court heard evidence regarding the parties' earnings, their respective contributions toward their expenses in general and those related to the residence, the money received from Father's father, and Mother's payment of the mortgage payments. The court also heard evidence and entered orders regarding the parties' vehicles, jewelry, and personal effects. The trial court was able to assess the parties' credibility and weigh their testimony regarding their property and Father's noncompliance with its discovery order, it heard evidence regarding the property, the parties' respective contributions in acquiring the property, the extent to which they received gifts, their conduct, and their economic circumstances and earnings or earning abilities. We consider only the evidence most favorable to the court's disposition, and we cannot say that Father has overcome the strong presumption that the court considered and complied with the applicable statute. We cannot say the trial court did not reach a just and reasonable conclusion or that reversal is warranted. *See Luedke v. Luedke*, 487 N.E.2d 133, 135 (Ind.



1985) (observing the decree distributed property without making findings as to the value of each item and it was apparent the court considered the source of the items and their future use and holding the court reached its conclusion in a fair and reasonable manner on the record and that reversal was not merited).

C. *Contempt*

[22] We review the trial court's finding of contempt for an abuse of discretion. *J.M. v. D.A.*, 935 N.E.2d 1235, 1243 (Ind. Ct. App. 2010), *reh'g denied*. A person who is guilty of willful disobedience of any lawfully entered court order of which the offender had notice is guilty of an indirect contempt. Ind. Code § 34-47-3-1; *Henderson v. Henderson*, 919 N.E.2d 1207, 1210 (Ind. Ct. App. 2010).

[23] Father argues the trial court erred in finding him in contempt because the dissolution decree did not specify a date by which he was required to execute the quitclaim deed. Father did not raise this argument below. The decree awarded the marital residence to Mother, ordered Father to execute a quitclaim deed and any other documents necessary to release any claim to the property, and ordered Mother to refinance the mortgage or otherwise remove Father's name from the mortgage. In her January 19, 2022 petition for contempt, Mother alleged that her lender sent Father the documents necessary to release his claim to the property on November 17, 2021, that Father had not signed the documents, that Mother's counsel sent an email to Father's counsel on January 3, 2022, indicating that Mother had secured financing and needed to close prior to January 18, 2022, to keep the interest rate that had been locked, that no

response was received, and that Mother's mortgage file was being closed by the mortgage company and Mother was required to reapply. At the June 22, 2022 hearing, Father agreed that Mother had given him a deed to sign and that he had not signed it. When asked why he had not signed the deed, he answered "we both bought it so I have a right of the 50% of that property." Transcript Volume II at 41. He also said "[t]he down payment was given by my father as well," "I have something that belongs to that property as well," and "[s]o that's what [sic] I did not sign the quit[claim] deed." *Id.* at 41-42. Mother presented exhibits summarizing the additional amounts in interest she would pay to refinance the mortgage on the marital residence as a result of Father's refusal to sign the deed. The court found that Father's recalcitrance with regard to the execution of the quitclaim deed mirrored his refusal to abide by the court's order on the motion to compel discovery. We find no abuse of discretion.

[24] For the foregoing reasons, we affirm the judgment of the trial court.

[25] Affirmed.

Altice, C.J., and Tavitas, J., concur.